

## **REMARKS**

This paper is presented in response to the Office Action. By this paper, claim 6 is amended and new claim 21 is added. Claims 1-13 and 15-21 are now pending.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments and the following remarks. For the convenience and reference of the Examiner, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

#### **A. Claim Amendments and/or Cancellations**

Applicant notes that while claim 6 has been amended herein and claim 14 has been canceled (previously), such amendment and cancellation have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicant, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicant hereby reserves the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicant submits that neither the claim amendments set forth herein, nor any other claim amendments, claim cancellations or statements advanced by the Applicant in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

#### **B. Remarks**

Applicant respectfully notes that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicant has broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicant, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Applicant notes as well that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the

purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teachings and purported prior art status of the cited references at any appropriate time.

## **II. Rejection of Claims under 35 U.S.C. § 102**

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (c) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *MPEP § 2131*.

### **A. Claims 1, 3-4, 7-12, 15-16, and 18-19**

The Examiner has rejected claims 1, 3-4, 7-12, 15-16, and 18-19 (claims 1, 11 and 16 are independent claims) under 35 U.S.C. § 102(c) as being anticipated by U.S. Patent Publication No. 2004/0185696 to Long et al. ("*Long*"). Applicant respectfully disagrees.

The Examiner has alleged that *Long* discloses the claim 1 elements "...a tool configured to releasably engage the housing...[the tool being] movable between a first position and a second position...[where the cage latch] is deflected when the [tool] is in the second position..." *Office Action* at 3. The Examiner has similarly asserted, with regard to claim 7, that "...When the release mechanism is an insertable release tool, the actuator 50 [of *Long*] moves linearly to deflect the cage latch as the release tool is inserted..." As in the case of the rejection of claim 1, the Examiner relies on paragraphs [0003] through [0005] of *Long*. A review of those paragraphs reveals, however, that such reliance is misplaced.

In particular, neither paragraphs [0003] or [0004] of *Long* make any reference to a "tool" such as is recited in claim 1. Paragraph [0005] of *Long*, which does refer to a "tool," contradicts the assertion of the Examiner that the disclosed tool is operable to deflect a cage latch, as recited in claim 1. In particular, paragraph [0005] of *Long* states that "...a special tool or probe (not shown) must be inserted into the slot 42 on the module's face 11 and/or between adjacent modules to access and depress actuator 50." *Emphasis added*. As Figure 1a of *Long* indicates however, it is clear that "actuator 50" is an element of the "module 10" and is not an element of the "receptacle 12." Thus, the assertion of the Examiner that *Long* discloses "...a tool configured to releasably engage the housing...[the tool being] movable between a first position and a second position...[where the cage latch] is deflected when the [tool] is in the second position...", as recited in claim 1, is not well taken. That is, the Examiner has failed to show that the tool disclosed in *Long* deflects a cage latch, as required by claim 1.

Similar to claim 1, claim 16 recites "...wherein the transceiver module is removable from the cage by deflecting the latch with any one of at least two different release mechanisms to free the module projection from the latch slot, a first one of the release mechanisms comprising a tool..." Applicant thus submits that the Examiner has failed, for at least the same reasons set forth above in the discussion of claim 1, to establish that *Long* anticipates claim 16.

Finally, in rejecting claim 11, the Examiner has asserted in part that *Long* discloses "...A first opening 42 and a second opening 42..." *Office Action* at 3. *Emphasis added.* Notwithstanding this assertion, the Examiner has failed to show that *Long* discloses two openings such as are required by claim 11. For example, Figures 1a, 2a and 2c of *Long* indicate only a single opening denoted with reference numeral 42. Thus, the assertion of the Examiner that *Long* discloses two "opening 42"s is inconsistent with the disclosure of *Long*. Alternatively, if it is the position of the Examiner that one opening (*Long*) is the same as two openings (claim 11), Applicant respectfully requests that the Examiner provide supporting rationale for that position.

In light of the foregoing, Applicant respectfully submits that the Examiner has failed to establish that *Long* anticipates claims 1, 11 and 16 at least because the Examiner has not established that each and every element as set forth in claims 1, 11 and 16 is found in *Long*, because the Examiner has not established that the identical invention is shown in *Long* in as complete detail as is contained in claims 1, 11 and 16, and because the Examiner has not shown that *Long* discloses the elements arranged as required by claims 1, 11 and 16. Applicant thus respectfully submits that the rejection of claims 1, 11 and 16, as well as the rejection of corresponding dependent claims 3-4, 7-10, 12, 15, and 18-19, should be withdrawn.

**B. Claims 1-6, 8-13, and 16-20**

The Examiner has rejected claims 1-6, 8-13, and 16-20 (claims 1, 11 and 16 are independent claims) under 35 U.S.C. § 102(b) as being anticipated by US 6,430,053 to Peterson et al. ("*Peterson*"). Applicant respectfully disagrees.

In rejecting claim 1, the Examiner has alleged, in part, that *Peterson* discloses "...In the prior art embodiment (relative to the reference) a tool (not shown) is received into slot 40 to contact the release member (see, e.g., col. 1 lns 46-58; an empty slot 40 is best seen in fig. 4..." *Office Action* at 5. This allegation is problematic for a variety of reasons.

At the outset, Applicant notes that the cited portion of *Peterson* (col. 1, lines 46-58) refers to insertion of a "tool" into a "small slit on an external face of the transceiver module..." That is, *Peterson* refers to a "slit" rather than a "slot" as the Examiner has alleged.

Moreover, it appears that in asserting that *Peterson* discloses "...In the prior art embodiment (relative to the reference) a tool (not shown) is received into slot 40..." , the Examiner has simply assumed

that the “prior art” slit is the same as the “slot 40” referred to in Figure 4 of *Peterson*. However, the Examiner has simply failed to establish that such a correspondence exists and, moreover, *Peterson* suggests that Figure 4 is not concerned with the prior art, but discloses an embodiment of “the invention.” See, e.g., col. 2, lines 39-57. In fact, there would appear to be no reason for the purportedly inventive device of *Peterson* to include a “slit” for tool insertion, inasmuch as a stated aim of *Peterson* is to provide a device that “...does not require any tools to operate.” Col. 1, lines 59-61. *Emphasis added*. As the foregoing makes clear then, the Examiner has failed to establish that any single device disclosed in *Peterson* includes a “...housing configured to receive any one of at least two different release mechanisms...” as claim 1 requires.

Regarding claim 11, the Examiner has asserted in part that *Peterson* discloses “...A first opening 40 and a second opening 40...” *Office Action* at 6. *Emphasis added*. Notwithstanding this assertion, the Examiner has failed to show that *Peterson* discloses two openings such as are required by claim 11. For example, Figure 4 of *Peterson* indicates only a single opening denoted with reference numeral 40. Thus, the assertion of the Examiner that *Peterson* discloses two “opening 40”s is inconsistent with the disclosure of *Peterson*. Alternatively, if it is the position of the Examiner that one opening (*Peterson*) is the same as two openings (see claim 11), Applicant respectfully requests that the Examiner provide supporting rationale for that position.

Moreover, Applicant notes that insofar as the rejection of claim 11 is based on the characterization of *Peterson* advanced by the Examiner with respect to claim 1 (see *Office Action* at 6), that rejection lacks an adequate basis and should be withdrawn.

With attention, finally, to claim 16, the Examiner has alleged that *Peterson* discloses “...the transceiver module is removable from the cage by deflecting the latch with any one of at least two different release mechanisms to free the module projection from the latch slot, at least a first one of the release mechanisms comprising a tool configured to releasably engage the housing (see above with regard to earlier claims).” *Office Action* at 7. *Emphasis added*. It would thus appear that the Examiner is relying on the characterization of *Peterson* advanced in connection with the rejection of claims 1 and 11. As noted above in the discussion of those claims however, that characterization is not well taken. Thus, insofar as the rejection of claim 16 relies on that characterization, the rejection of claim 16 lacks an adequate basis and should be withdrawn.

In light of the foregoing, Applicant respectfully submits that the Examiner has failed to establish that *Peterson* anticipates claims 1, 11 and 16 at least because the Examiner has not established that each and every element as set forth in claims 1, 11 and 16 is found in *Peterson*, because the Examiner has not established that the identical invention is shown in *Peterson* in as complete detail as is contained in claims 1,

11 and 16, and because the Examiner has not shown that *Peterson* discloses the elements arranged as required by claims 1, 11 and 16. Applicant thus respectfully submits that the rejection of claims 1, 11 and 16, as well as the rejection of corresponding dependent claims 2-6, 8-10, 12-13, and 17-20, should be withdrawn.

### **III. New Claim 21**

By this paper, Applicant has added new claim 21, which is believed to be in allowable condition at least by virtue of its dependence from claim 1. Support for new claim 21 can be found in the application at page 7, line 27 to page 8, line 6, and Figures 8a and 8b.

**CONCLUSION**

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-13 and 15-21 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 28<sup>th</sup> day of February, 2008.

Respectfully submitted,  
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